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The Enemy Mendes-France Defeated

Amid the general inanity of American newspaper comment whenever peace manages to break out, men of good will who are still unafraid to think clearly will give thanks for the ending of the Indo-Chinese war. In the high level strategic thinking in which our armchair generals of the press engage, no one stopped to think of the bombed out villages in Indo-China which can sleep for a change without dread of what might drop upon them from the skies. In Indo China, as in Korea, Western forces had grown accustomed to dealing out death with lordly indifference to the natives—there is an unconscious presumption that the man burned out by napalm prefers incineration by the "free world" to Communist "enslavement." From this, Indo China will now have surcease.

We also dare assert that the world owes a debt not only to Mendès-France but to the negotiators on the other side—to Molotov and Chou En-lai and Ho Chi-minh for taking half a loaf when they might have been tempted into greed by military successes or stung into obduracy by insulting provocations. The Geneva conference demonstrated what most people in this country have grown afraid to recognize—that peace is possible where there is a will to negotiate and a readiness to compromise. Our own U.S. attitude toward peace conferences has too long been that these are places where we lay down our terms take-it-or-leave it, unconditional surrender style. Mendès-France in his last broadcast to the French people before the settlement well described the enemy that he had to vanquish: "distrust. Between the men who are seeking peace together here," the Premier said, "one notices a profound distrust, a painful distrust . . . It is the heaviest burden that weighs on our work, it is the most serious threat, present and future, for the maintenance of peace."

North Africa The Next Test

In the wake of the peace, the problem for Vietnam is to avoid a permanent partition; Korea and Germany are dreadful examples of the fate which awaits countries split between the spheres of influence of the contending Great Powers. The peace agreement promises elections; it is a shameful commentary on the "free world" that it is we who insisted on postponing those elections as long as possible. Unless the neutral Asian powers insist, these elections and the reunification they would make possible may never come to pass. For France, the problem is now to act quickly in Tunisia and Morocco to grant nationalist aspirations within the French Union before it is too late. There is little time left if Mendès-France is to save French North Africa from becoming another Indo-China. In this task, and in his wider project for reviving and stabilizing his country, he will have the good wishes of all who love France. A new star has risen in her time of need.

In regard to Indo-China, the situation here in Washington is not quite what it appears to be in the headlines. Those conservative forces which prevented U.S. intervention earlier and spiked the guns of the Radfords and Nixons also played a role behind the scenes in sending Walter Bedell Smith to Geneva. Even on the Hill, where the Democrats are trying to compete with the China Lobby Republicans as fire-eaters in preparation for the Fall election, the silent are more significant than the noisy few like Knowland and Symington.

Co-Existence, But By Some Other Name

At his press conference last Monday Secretary of Defense Wilson said some method must be worked out whereby the free world and communism can live together. When a reporter commented, "That sounds like co-existence," Wilson drew back in alarm from the horrid word—but not the idea. He suggested maybe "cohabitation" would be a better term and added that after observing two world wars he did not think a third would be the answer. (Compare this with George Meany's sneers about "massive appeasement" replacing "massive retaliation" and you will see how much more peaceful our capitalists are than our labor leaders).

Eisenhower also was cautious and stressed the possibilities of world peace. The tip-off is that he is still unwilling to give Chiang the mutual assistance pact the latter has been asking. Another indicative straw is that we are proposing "consultation" rather than automatic action in that South East Asia pact now under discussion. There are men within the Administration who would be relieved if somehow Communist China could be gotten into the UN after election without too much of an uproar.

The weak and faltering man in the White House must wish there was some similar way to dispose of the McCarthy problem without the risk of taking leadership or responsibility. But while Mendès-France has won a great victory over distrust abroad, the forces which fatten politically on the propagation of distrust at home are still riding high. McCarthy took a defeat but a minor one in the loss of Cohn and the switch of Surine. He retains his place; even the Flanders censure motion if voted will be no setback. His plans (if the Joint Congressional Committee on Atomic Energy does not interfere) are to exploit the Oppenheimer case in sensational H and A bomb hearings. Jenner and McCarran are getting ready to compete by reopening the Harry White hearings with Morgenthau as a new target. Brownell, putting on the heat for the Fascist police style legislation discussed on pages two and three, plans sensational red raids to keep up with the witch hunting Joneses. The next few months will be as hectic at home as they will be peaceful abroad.

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A Way to Reenact The Hiss Case and the Chambers Charges

The Dynamite Hidden in Brownell's New Espionage Bill

Without a hearing, without a minority report, the Senate Judiciary Committee last Monday reported favorably HR 9580, "an act to revise and extend the laws relating to espionage and sabotage." This bill embodies three measures requested by the Attorney General (HR 8749, 9021, and 9023). The bill provides the death penalty for espionage in peacetime—for the first time in the history of the United States.

In the House the bill was approved on July 8 with little debate. Not a single vote was recorded in opposition, so great was the fear of appearing to oppose anything labelled a law against espionage. Only one member Celler (D. N.Y.) had the courage to voice his opposition to the death penalty (see box at the bottom of this page) but even he did not vote against the bill. Unless public opinion makes itself felt in the Senate, it may pass there with little or no debate.

This bill, if passed, will yet haunt the labor movement and the democratic party. The definition of sabotage is so broad that it could be used against strikers, on the ground that they were interfering with the production of defense essentials with intent to injure the United States.

The espionage provisions would make it possible to rake up old charges against New Dealers and scientists which have failed to stand up in the courts, or been aired only before Congressional committees. The bill, in this respect, would (to summarize roughly) do three new things.

1. By making death a possible penalty for peacetime espionage, the present 10-year statute of limitations would be lifted and prosecutions could be instituted for events which took place in the 30's or the 20's. Naturally the further back one goes, the harder it is for a man to defend himself, to find witnesses and to uncover proof.

But if this bill passes, the Whitaker Chambers story could be taken into the courts. A man like Alger Hiss could be rearrested on leaving prison and made the center of another political bogeyman circus. If there was no evidence that he had actually passed the kind of information required for an espionage conviction, two other modes of procedure would be open. This brings us to the second and third things the bill would do:

2. The bill carries a conspiracy provision which says that "If two or more persons conspire to violate this section, and one or more of such persons do any act to effect the object of the conspiracy, each of the parties to such conspiracy shall be subject to the punishment provided for the offense . . ."

Forrester (D. Ga.) in the debate on the bill asked whether this would not make equally guilty some person who had left the conspiracy and "has fully repented and has fully recanted?"

To this Walter (D. Pa.), gave a cynical answer. "The fact that two people enter a conspiracy," Walter told Forrester, "and one decides not to go through with it certainly would not make it necessary to impose any punishment . . . The gentleman with all his years of experience as a prosecutor knows how many times he has gone to the court and explained that a criminal has been quite helpful and suggested that perhaps the case ought to be nolle prossed."

In other words the death penalty could be used to put the screws on accused persons to make them tools of the prosecution. Within the confines of this roomy conspiracy provision, many might be convicted against whom there was no evidence of actual espionage. Others could be turned into informers, testifying to real, exaggerated or imaginary experience to save their own necks.

3. An even simpler way is opened by the bill for the prosecution. This lies in the provisions of Title III requiring the registration of persons who have knowledge of, or been trained in, espionage or sabotage.

"At first blush," as Walter explained to the House, "one would say that we are rather naive in expecting somebody trained in espionage to come forward and register. But when you look at the situation a little more carefully, you will find under this language it is possible to prosecute people for a failure to register when you could not prove the overt acts necessary to be proved in spelling out another offense," i.e. actual espionage or sabotage.

On the say-so of some professional ex-Communist a man might be convicted of failure to register and go to jail for five years. The "warmed over spy" we have been promised in this coming election campaign could be warmed over in the courts.

When the registration device is added to the lifting of any statute of limitations, it is easy to see how many witnesses who pleaded the Fifth could be put through the hurdles of "non-registration" and how effectively the atmosphere of the campaign could be stoked up and stinked up by such tactics.

Even if the courts ultimately held that a man could not under the Fifth amendment be required to disclose facts which might be used to send him to his death for espionage, or "conspiracy to commit espionage," the short term damage would be done long before the courts had spoken. Among other things, the United Nations might be fatally smeared by reenacting in the courts in "non-registration" proceedings what the Jenner-McCarran committee so recently did in its investigation of UN personnel.

The One Lone Vote Against Death for Peacetime Espionage

"For a society which takes pride in the high value it places on human life, we can find little justification for the extension of the death penalty for peacetime espionage. Why do we do this? Do we expect the penalty to act as a deterrent? Yet criminologists . . . insist that it is not so. The threat of punishment is among the least considered of all factors by those intent upon the commission of crime. That holds good for a political crime.

"It has been pointed out again and again that juries are less willing to convict when the possible penalty is death. Those of us who have had wide courtroom experience know this to be so. Hence, what do we hope to accomplish? An act of revenge? Or retribution? This is the death penalty, I beg you to note, for peacetime espionage. This means the heightening of emotionalism in an area where, by all means, good sense and rationality must prevail. . . .

"I am sure when future historians appraise our present era they will note the baneful influence of fear of communism. They will speak of consciousness of the danger of communism but will deplore and severely criticize us for our monomania on the subject of fear of communism. They will say we were often actuated by sensation, not sanity, by passion, not patience. They will charge that the appeal was too often to our adrenal glands. That is why they will challenge our passing this bill making peacetime espionage a capital offense.

"Death is final and a mistake in executing an innocent man is irreparable. Juries are not infallible and are certainly open to wider error when dealing with the surcharged climate surrounding espionage. Remember, too, there is no statute of limitation in capital offenses."

—Celler (D. N.Y.), the only member of the House to question the death penalty as provided in HR 9580, (Con. Rec. July 8, 1954, pps. 9529-30).

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Covering The Witch Hunt Front On Our Own Broomstick

Worst news of the week was passage by the House (unanimously by voice vote) late Wednesday afternoon (July 21) of HR 7130, the Eisenhower-Brownell bill to deprive "conspirators" of their citizenship on conviction under the Smith Act and similar sedition statutes (for full discussion see the *Weekly* for last February 1, "An Old Police State Custom") . . . The companion measures on the Senate side are still buried in Senate Judiciary subcommittee on immigration . . .

The only good news was minor. In the Senate, the indefinite shelving by the Senate Judiciary Committee of a Brownell bill to make conviction for perjury easier by merely requiring the prosecution to prove inconsistent statement instead of falsity . . . Aside from that, Senator Langer (*R., N.D.*), chairman of the committee, said everything requested by Brownell would be reported out, except the wiretap bill and the immunity bill . . .

In the meantime the Senate committee voted out S 3428, the Brownell-Ferguson-Jenner screening bill permitting the discharge from industry of "individuals believed to be disposed to commit acts of sabotage, espionage or other subversion" . . . This blacklist bill is opposed by the labor movement, along with the companion Brownell measure to liquidate or brand as subversive those trade unions, businesses and other organizations found to be "Communist infiltrated."

As a result of united labor pressure, the House Judiciary Committee buried these two Brownell bills and reported to the House a substitute by Walter (*D., Pa.*), HJ Res. 527. This would establish a Commission on Security in Industry with 12 members to be appointed by the President from labor, management and the public to "study the prevailing practices and conditions in all branches" of industry with regard to protection against "sabotage, espionage and other activities" and report their findings by January 15 . . . The committee (Hse. Rpt. 2280) said this would be better than passing "measures hastily drawn and obviously inadequate" and added that it was "gratified to find" that Meany and Reuther concurred . . .

But as we went to press, there was rumor of a deal whereby the House would pass the Walter bill for a study commission but the wild men would be appeased by passage of a bill to outlaw the Communist party and "front" organizations . . . A House Judiciary subcommittee Wednesday favorably reported HR 9915, a bill "declaring the Communist party and similar revolutionary organizations illegal" . . . The penalties are ten years in jail or $10,000 fine or both and the jury would take into account among other things in determining membership whether the accused had "indicated by word, action, conduct, writing . . . a willingness to carry out in any manner and to any degree" any of the plans or purposes of the organization . . . A sermon on peace or an editorial against the witch hunt might be considered as evidence . . . Celler was the lone dissenter . . .

Should the Walter bill pass the House, a battle may develop in conference committee of the two Houses . . . Senator Butler (*R., Md.*), sponsor with four other Senators of S 3706, to subject "Communist infiltrated" unions and other organizations to the Subversive Activities Control Board, said he would fight the Walter substitute . . . "We don't need a commission," he said, "and I won't support one" . . . In the meantime the "filibuster" on the atomic energy act by Senators opposed to Eisenhower's private power grab at TVA is so holding up the business of the Senate that no vote has been scheduled on this key witch hunt bill . . .

The best hope of blocking this and similar measures is to suggest to your Senator that he vote for the idea of study by a Presidential commission . . . Meanwhile the House has joined the Senate in passing HR 9690 to preserve the Republic by forcing all subversive organizations to register presses and mimeograph machines with the SACB . . . How scared can a great country get?

Even Steven, or The Marxist Struggle A La Mack Sennett

"Just because the FBI says there are 25,000 Communists in the U.S. is no reason to change the laws protecting the homes of the rest of the 160 million Americans. The FBI has, say, 10,000 men chasing Communists. Then you have the McCarthy committee chasers and the Velde committee chasers. When you put them all together, it looks like about 25,000 persons chasing 25,000 persons."

—Sen. Langer (INS interview, July 19 Wash. Post)

Outlook on the Immunity Bill

Hearings on a high level of fairness by the committee and of presentation by the witnesses were held by House Judiciary last week on bills to compel testimony despite the Fifth amendment, the so-called "immunity" bills.

On Monday, Theodore Pearson for the Bar Association of New York opposed the grant of such power to Congressional committees under any circumstances but approved immunity powers for grand juries and courts. William Allen Rahill of the Philadelphia bar, for the Friends Committee on National Legislation, and Leonard B. Boudin of the New York bar, for the Emergency Civil Liberties Committee, eloquently argued the case for preserving the full protection of the Fifth amendment in all types of proceedings. Similar testimony was given on Wednesday by Irving Ferman for the American Civil Liberties Union and by Robert J. Silverstein for the National Lawyers Guild.

We hope to give a full summary of the points they made in a later issue. The immunity bill at the moment is not quite as near possible passage as other witch hunt measures. House Judiciary does not seem too favorably disposed and that last of the civil libertarians, Celler (*D., N.Y.*), the ranking Democratic member, made his own opposition evident. We recommend to our readers as ammunition and one of the best studies of its kind, the article on "The Immunity Bill" by Leonard B. Boudin which has just been published by the Georgetown Law Journal (Vol. 42, No. 4, $1.25, Georgetown Law School, Washington, D.C.). It is a work of scholarship and penetration which you will enjoy reading.

The *Weekly* Takes Another Bow In The British Press

***Critic* in the incomparable London *New Statesman and Nation* for July 10, and Laborite M.P. Tom Driberg in his vigorous column (June 27) for *Reynold's News*, the Sunday paper of the British Cooperative movement (it has several million readers), both lifted items from our *Weekly*, and gave generous credit. The former picked up the quote we unearthed from John Foster Dulles's article in 1935 on "The Road to Peace," the prescription then being to give in to the expansionist Axis powers. The latter used parts of our special issue on Guatemala.**

There is much in the *Weekly* you won't find elsewhere, not because we have a crystal ball or a tap on the White House telephone but because there is so much of importance that is being ignored by other publications out of indifference, hostility or fear. Do a little missionary work for us on vacation. We'll send free sample copies on request. There is a blank on the reverse side for your renewal, subscription or a gift sub. It may be a small publication but it helps to fill a large void.

—I. F. STONE.

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The Lamont, Unger, Shadowitz First Amendment Cases

Challenge to the Senate: Will It Rubber Stamp McCarthy?

There are several reasons why the Senate ought not to vote the contempt resolutions asked by McCarthy in the Lamont, Unger and Shadowitz cases without real debate.

The basic device the Senate possesses for regulating and policing the conduct of its own committees—a device no one seems to exercise—lies in the vote on contempt resolutions. It is at this point that the Senate has an effective check on abuse of power by committees. It can refuse to vote a contempt citation.

What is the good of the endless debate over the reform of committee procedures when even Senators who are aroused over these abuses do not use this existing check, vote like rubber stamps when contempt resolutions come up?

A shocking example was provided by the Harvey O'Connor case. In the midst of an uproar of protest against McCarthy's conduct and methods, the contempt citation was passed by the Senate as a routine matter, without any discussion whatever, as if it were a private bill.

Some slight progress has been made since then. When the Lamont, Unger, Shadowitz contempt resolutions (S. Res. 280, 281, and 282) were called up for a vote last Saturday (July 17), Senator Cooper (R. Tenn.), a member of the calendar committee, said "there is a request that the resolutions be passed over." Unanimous consent being denied, there was no vote. At least one Senator is preparing to stage a fight.

Even the busiest Senator, with time only for a cursory glance at the reports which accompanied these contempt resolutions (Sen. Rpt. 1812, 1813 and 1814), will see that these involve new questions on which it is the duty of the Senate to pass. These are novel First, not routine Fifth, amendment cases.

The Unger case involves the right of the McCarthy committee (the old Senate Audit and Expenditures committee) to investigate the personnel of the United Nations. The witness, a lawyer, answered the questions about UN employes but balked on several grounds at questions as to political views and associations. The relevance of the questions, the authority of the committee, the encroachment on the right of members of the bar to be free from governmental inquisition, the First amendment were all cited. These are substantial questions.

Albert Shadowitz, who was drawn into the vortex of the Fort Monmouth circus, answered questions about his handling of classified material, and denied espionage. But he declined to answer questions about political views, invoking the First amendment and citing the advice given American intellectuals by Dr. Albert Einstein to resist Inquisition.

Has the McCarthy committee the right to inquire into political views? The Jenner committee, under the terms of its resolution, may claim the right. There is nothing in the resolution establishing McCarthy's committee which gives him similar power.

The Corliss Lamont case is of prime interest. He was drawn into McCarthy's orbit on the excuse that he was cited in the bibliography of one book on Siberia used by the Army and had contributed a chapter to another. He swore that he had never been a Communist but refused on First Amendment grounds to answer questions about political views and associations, challenging the committee's authority to make such inquiries.

McCarthy claimed jurisdiction for his Government Operations committee because the witness's books were purchased by the government. In a brief filed with the Attorney General in the Lamont case, the American Civil Liberties Union said:

"The naked question . . . is whether the government can investigate any author or any book. We say that this broad question is involved for the reason that every book published in the United States occupies a place in the Library of Congress; almost every newspaper is published by one or more government agencies . . . If inquiries into associations of those who write books is possible in Mr. Lamont's case, it is possible in the case of every author, of the editor of every newspaper."

Can Senators of conscience permit such issues to be decided by default? Will they allow themselves to be used as rubber stamps for McCarthy in these cases? Their duty and the First Amendment are involved.

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